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In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	DECISION ON PETITION
PCT No.: PCT/JP00/07229	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 18 October 2000	:	
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR	:	
PERIPHERAL EDGE OF	:	
SEMICONDUCTOR	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 07 June 2002 to accept the application without the signature of joint inventor, Hitoshi Tambo.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. The international application listed Yoshiyuki Nakano; Yasuhiro Kosawa; and Hitoshi Tambo as applicant/inventors. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicants filed petition under 37 CFR 1.47(a). The petition was dismissed in a decision dated 05 February 2002.

On 07 June 2002, applicants filed the present renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Hitoshi Tambo. Additionally, Yasuhiro Kozawa declares that Hitoshi Tambo has refused to sign the application papers.

As to item (4), a review of the declaration filed 12 October 2001 is defective pursuant to 37 CFR 1.497. Specifically, the declaration has been executed by "Teruyuki" Nakano whereas the international application lists "Yoshiyuki" Nakano as the first inventor. In that this is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

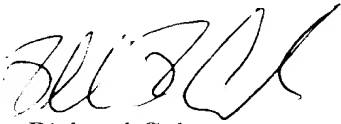
Applicant states in the present petition that Yasuhiro Kozawa is the correct name of the third inventor. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the second named inventor's name is accepted and noted for the record.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



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